In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-389

FRANK ZIZZO, PETITIONER

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

In 1963, after a jury trial in the United States District Court for the Northern District of Indiana, petitioner was convicted on fifteen counts charging travel in interstate commerce with intent to carry on an illegal gambling enterprise, in violation of 18 U.S.C. 1952. He was sentenced to concurrent prison terms of five years and fined $10,000. The conviction was affirmed, 338 F.2d 577 (C.A. 7), and certiorari was denied, 381 U.S. 915. After serving part of his sentence, petitioner was paroled in December 1966. In January 1970 a parole violator's warrant was issued. After an evidentiary hearing before an examiner, the Board of

Parole entered an order on April 3, 1970, revoking petitioner's parole.[1] On January 31, 1972, petitioner filed a petition for a writ of habeas corpus, contending that the revocation of his parole was arbitrary, capricious, and in violation of his rights under the First Amendment. The district court denied the petition with an opinion (Pet. App. B). The court of appeals affirmed (Pet. App. A).

Petitioner contends that the revocation of his parole was not supported by satisfactory evidence as to his association with a person having a bad reputation, and that the court of appeals erred in not following this Court's holding in *Morrissey* v. *Brewer,* No. 71-5103, decided June 29, 1972, as to the proper procedures for parole revocation proceedings. These claims are answered in the opinion below, on which we rely.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

OCTOBER 1972.

---

[1] Petitioner then resumed service of his sentence. On July 14, 1970, he was released pending an appeal from a denial of a motion under 28 U.S.C. 2255. On January 31, 1972, following disposition of that appeal, appellant surrendered to the United States Marshal and filed the present petition. See *Zizzo* v. *United States,* 447 F.2d 857 (C.A. 7).

☆ U.S. Government Printing Office: 1972—479-067/251